

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

AMENDED IN SENATE MARCH 21, 2011

SENATE BILL

No. 770

Introduced by Senator Evans

February 18, 2011

An act to add Section 2864 to the Fish and Game Code, relating to marine resources.

LEGISLATIVE COUNSEL'S DIGEST

SB 770, as amended, Evans. Marine protected ~~areas~~: *areas: Native American tribes.*

The Marine Life Protection Act (MLPA) establishes the Marine Life Protection Program to reexamine and redesign California's marine protected area system. Existing law requires the Department of Fish and Game to prepare, and the Fish and Game Commission to adopt, a master plan that guides the adoption and implementation of the program, including recommended alternative networks of marine protected areas. ~~The MLPA requires the department to confer when necessary with the United States Navy regarding issues related to its activities under the MLPA. Under the MLPA, the taking of a marine species in a marine life reserve, a type of marine protected area, is prohibited for any purpose, including recreational and commercial fishing, except as authorized by the commission for scientific purposes.~~

This bill would authorize Native American tribes to submit proposals for comanagement of marine species within marine protected areas that are designated or proposed to be designated under the MLPA. The bill would require comanagement proposals to include prescribed

information, and would require submission of the proposals to the Secretary of the Natural Resources Agency. The bill would authorize the secretary to request additional information before determining that a proposal is complete, and upon a determination that a proposal is complete, would require the Director of Fish and Game to consult with the tribe to develop memoranda of understanding or other agreements to, among other things, provide access to the tribe for traditional hunting and gathering and cultural activities. The bill would require that tribes be permitted to continue traditional fishing, gathering, and cultural practices within a marine protected area without interruption prior to, and during the development of, a memorandum of understanding or other agreement.

~~This bill would require the department to confer with federally recognized Native American tribes regarding issues related to its activities under the MLPA.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 2864 is added to the Fish and Game Code,
- 2 to read:
- 3 2864. (a) Any federally recognized Native American tribe or
- 4 nonfederally recognized Native American tribe listed on the
- 5 California Tribal Consultation List maintained by the Native
- 6 American Heritage Commission, through its governing body, may
- 7 submit a proposal for limited or full comanagement of marine
- 8 species within marine protected areas designated or proposed to
- 9 be designated under this chapter to the Secretary of the Natural
- 10 Resources Agency. Two or more tribal governments may jointly
- 11 submit a unified comanagement proposal.
- 12 (b) A comanagement proposal shall include, but shall not be
- 13 limited to, all of the following:
- 14 (1) A description of the geographic boundaries of the area over
- 15 which comanagement authority is sought.
- 16 (2) A complete list of the species of interest to the tribe over
- 17 which comanagement authority is sought.
- 18 (3) A description of the proposed roles of the tribe and the State
- 19 of California in identifying and sharing scientific data about the
- 20 species of interest or their habitats.

1 (4) A description of the proposed roles of the tribe and the State
2 of California in recommending joint management policies.

3 (5) A description of the proposed role of the tribe in enforcing
4 the provisions of the comanagement agreement with its members.

5 (6) A dispute resolution mechanism in the event of unresolved
6 conflicts over obtaining or evaluating scientific data, enforcement
7 mechanisms, and other matters that arise during the consultation
8 undertaken pursuant to subdivision (d).

9 (c) The Secretary of the Natural Resources Agency shall
10 consider the comanagement proposal and may require additional
11 or clarifying information before determining that the proposal is
12 complete.

13 (d) Upon the secretary's determination that a proposal is
14 complete, the director shall consult with the tribal governing body,
15 or the tribe's officially designated representative, on the tribe's
16 request for comanagement of the resources that are the subject of
17 the proposal. The objective of the consultation shall be to develop
18 memoranda of understanding or other agreements between the
19 tribe and the state that accomplish all of the following:

20 (1) Provide access to the tribe for traditional hunting and
21 gathering and cultural activities, recognizing that there may be
22 other public use of the comanagement areas.

23 (2) Establish protocols for comanagement of the comanagement
24 areas.

25 (3) Establish conservation strategies to ensure the preservation
26 and enhancement of the resources of the comanagement areas to
27 assist in meeting the science-based goals of this chapter.

28 (e) Notwithstanding any other provision of state law, traditional
29 fishing, gathering, and cultural practices of a tribe shall be
30 permitted to continue within a marine protected area without
31 interruption prior to, and during the development of, a
32 memorandum of understanding or other agreement pursuant to
33 subdivision (d).

34 ~~SECTION 1. Section 2864 is added to the Fish and Game Code,~~
35 ~~to read:~~

36 ~~2864. The department shall confer with federally recognized~~
37 ~~Native American tribes regarding issues related to its activities.~~